

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

March 2022 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

COLE MATTHEW HARRIS,
ROBERT DOUGLAS SPIRO, JR.,
CINDY CHEN,
 aka "Meila Chen,"
 aka "Ying Chen," and
YAO LU,

Defendants.

CR 2:23-cr-00095-FMO

I N D I C T M E N T

[18 U.S.C. § 1349: Conspiracy to
Commit Wire Fraud; 18 U.S.C.
§ 982: Criminal Forfeiture]

The Grand Jury charges:

[18 U.S.C. § 1349]

[ALL DEFENDANTS]

A. INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

THE DEFENDANTS

1. Defendant COLE HARRIS was a resident of San Marino, California. Defendant HARRIS purported to be an officer of a California company called Capital Stone Holdings, Inc. ("Capital

1 Stone").

2 2. Defendant ROBERT DOUGLAS SPIRO, JR. was a resident of
3 Valley Village, California. Defendant SPIRO purported to be an
4 officer of Capital Stone.

5 3. Defendant CINDY CHEN, also known as ("aka") "Meila Chen,"
6 aka "Ying Chen," was a resident of San Marino, California, and
7 resided with defendant HARRIS.

8 4. Defendant YAO LU was a resident of Los Angeles, California.
9 Defendant LU purported to be an employee of Capital Stone.

10 THE PAYCHECK PROTECTION PROGRAM

11 5. The Coronavirus Aid, Relief, and Economic Security
12 ("CARES") Act was a federal law enacted in or around March 2020 that
13 was designed to provide emergency financial assistance to Americans
14 suffering economic harm as a result of the COVID-19 pandemic. One
15 form of assistance provided by the CARES Act was the authorization of
16 United States taxpayer funded forgivable loans to small businesses
17 for job retention and certain other expenses, through a program
18 referred to as the Paycheck Protection Program ("PPP").

19 6. In order to obtain a PPP loan, a qualifying business was
20 required to submit a PPP loan application signed by an authorized
21 representative of the business. The PPP loan application required
22 the small business (through its authorized representative) to
23 acknowledge the program rules and make certain affirmative
24 certifications in order to be eligible to obtain the PPP loan. One
25 such certification required the applicant to affirm that "[t]he [PPP
26 loan] funds w[ould] be used to retain workers and maintain payroll or
27 make mortgage interest payments, lease payments, and utility
28 payments." The applicant (through its authorized representative) was

1 also required to acknowledge that "I understand that if the funds are
2 used for unauthorized purposes, the federal government may pursue
3 criminal fraud charges." In the PPP loan application, the applicant
4 was required to state, among other things, its: (a) average monthly
5 payroll expenses; and (b) number of employees. These figures were
6 used to calculate the amount of money the small business was eligible
7 to receive under the PPP. In addition, the applicant was required to
8 provide documentation showing its payroll expenses.

9 7. A business's PPP loan application was received and
10 processed, in the first instance, by a participating financial
11 institution approved by the United States Small Business
12 Administration ("SBA"). If a PPP loan application was approved, the
13 participating financial institution would fund the PPP loan using its
14 own monies. The SBA guaranteed the loans funded under the PPP.

15 8. PPP loan proceeds were required to be used by the business
16 on certain permissible expenses, namely, payroll costs, interest on
17 mortgages, rent, and utilities. The PPP allowed the interest and
18 principal on the PPP loan to be entirely forgiven if the business
19 spent the loan proceeds on these expenses within a designated period
20 of time and used at least a minimum amount of the PPP loan proceeds
21 towards payroll expenses.

22 9. The PPP also allowed certain eligible borrowers that had
23 previously received a PPP loan to apply for a second PPP loan, with
24 the same general loan terms as their first PPP loan. These "second-
25 round" loans could be used for the same purposes as were permitted
26 for the first PPP loans, including payroll costs, interest on
27 mortgages, rent, and utilities.

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1 BANK 1

2 10. Bank 1 was a financial institution within the meaning of
3 18 U.S.C. § 20 that was an approved SBA lender of PPP loans.

4 B. THE OBJECT OF THE CONSPIRACY

5 11. Beginning in or around March 2020 and continuing until at
6 least in or around September 2022, in Los Angeles County, within the
7 Central District of California, and elsewhere, defendants HARRIS,
8 SPIRO, CHEN, and LU conspired with one another and with others known
9 and unknown to the Grand Jury to commit wire fraud, in violation of
10 Title 18, United States Code, Section 1343.

11 C. THE MANNER AND MEANS OF THE CONSPIRACY

12 12. The object of the conspiracy was to be carried out, and was
13 carried out, in substance, as follows:

14 a. Defendants HARRIS, SPIRO, CHEN, and LU, together with
15 other co-conspirators, would submit and cause to be submitted online
16 applications for PPP loans on behalf of inactive companies through an
17 approved SBA lender, with the intent to later apply to the SBA for
18 forgiveness of the PPP loans.

19 b. Defendants HARRIS, SPIRO, CHEN, and LU, together with
20 other co-conspirators, would knowingly make and cause to be made
21 false statements in connection with the applications for PPP loans,
22 including false statements about: (i) the number of employees at the
23 companies; (ii) the amount of average monthly payroll for those
24 employees; (iii) the truth and accuracy of all the information and
25 documents submitted in or with the applications, including attached
26 Internal Revenue Service ("IRS") forms; and (iv) the intended use of
27 the loan proceeds, including false certifications that the loan
28 proceeds would be used for permissible business purposes.

1 c. After the approved SBA lender funded the applied-for
2 PPP loans, defendants HARRIS, SPIRO, and CHEN, together with other
3 co-conspirators, would transfer and cause to be transferred the
4 proceeds of the fraudulently obtained loans via wire transfers and
5 checks to accounts that they controlled and other recipients for
6 purposes that were not permitted under the PPP.

7 d. Defendants HARRIS, SPIRO, and CHEN, together with
8 other co-conspirators, would use the fraudulently obtained PPP loan
9 proceeds for non-business expenditures not permitted under the PPP.

10 e. Defendant HARRIS would apply for forgiveness a PPP
11 loan, falsely representing in the forgiveness application that PPP
12 funds had been spent consistent with the program's requirements.

13 D. OVERT ACTS

14 13. On or about the following dates, in furtherance of the
15 conspiracy and to accomplish its object, defendants HARRIS, SPIRO,
16 CHEN, and LU, together with other co-conspirators, committed and
17 willfully caused others to commit the following overt acts, among
18 others, in Los Angeles County, within the Central District of
19 California, and elsewhere:

20 Deja, LLC

21 Overt Act No. 1: On or about March 27, 2020, communicating
22 via the WeChat messaging application, defendants HARRIS and CHEN
23 agreed that they should apply for PPP loans for multiple companies in
24 order to fraudulently obtain millions of dollars.

25 Overt Act No. 2: On or about April 28, 2020, on behalf of
26 Deja, LLC ("Deja"), defendant HARRIS submitted to Bank 1 a PPP
27 Borrower Application Form (the "Deja Application"), which (i) falsely
28 represented that Deja had 306 employees and an average monthly

1 payroll of \$1,041,737; (ii) included supporting documents, including
2 federal tax forms, that were false and fraudulent; (iii) falsely
3 certified that the applicant would use the loan proceeds only for
4 permissible business purposes; and (iv) falsely certified that all
5 information submitted in or with the loan application was true and
6 accurate.

7 Overt Act No. 3: On or about May 8, 2020, defendant HARRIS
8 sent an email to an employee at Bank 1, which stated, in part: "Thank
9 you for all your help getting this approved. Yao asked me to send you
10 more information on the Deja, LLC. . . . We have approx.
11 300 employees that work in hospital, SNF, urgent care, occupational
12 therapy and specialty care settings. . . . You can get more
13 information on the company's website www.Dejastaff.com and if anyone
14 has more questions they can call me directly anytime."

15 Overt Act No. 4: On or about May 8, 2020, after defendant
16 HARRIS, in a communication via the WhatsApp messaging application,
17 sent defendant SPIRO an image of the email that defendant HARRIS had
18 sent to the employee at Bank 1, defendant SPIRO replied: "Perfect."

19 Overt Act No. 5: On or about May 12, 2020, after Bank 1
20 deposited approximately \$2,604,300 of PPP loan proceeds into a Bank 1
21 account ending in 8951 in the name of Deja (the "Deja Bank 1
22 Account") for which defendant HARRIS was the sole signer, defendant
23 CHEN, in WeChat communications, asked defendant HARRIS if he could
24 deposit a \$120,000 check for Capital Stone.

25 Overt Act No. 6: On or about May 13, 2020, defendant HARRIS
26 signed a check in the amount of \$120,000 payable to Capital Stone,
27 which resulted in the transfer of PPP loan proceeds from the Deja
28 Bank 1 Account to a Wells Fargo Bank account ending in 9955 in the

1 name of Capital Stone (the "Capital Stone Wells Fargo Account"), for
2 which defendant HARRIS was the sole authorized signer.

3 Overt Act No. 7: On or about May 14, 2020, defendant HARRIS
4 initiated a wire transfer of \$800,000 of PPP loan proceeds from the
5 Deja Bank 1 Account to a Wells Fargo Bank account ending in 3819 in
6 the name of Deja (the "Deja Wells Fargo Account"), for which
7 defendant HARRIS was the sole authorized signer.

8 Overt Act No. 8: On or about May 14, 2020, defendant HARRIS
9 withdrew \$709,000 from the Deja Wells Fargo Account.

10 Overt Act No. 9: On or about May 14, 2020, defendant HARRIS
11 signed a check in the amount of \$100,000 payable to X.Z., which
12 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
13 Account.

14 Overt Act No. 10: On or about May 14, 2020, defendant HARRIS
15 signed a check in the amount of \$53,500 payable to F.W., which
16 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
17 Account.

18 Overt Act No. 11: On or about May 18, 2020, defendant HARRIS
19 initiated a wire transfer of \$600,000 of PPP loan proceeds from the
20 Deja Bank 1 Account to the Deja Wells Fargo Account.

21 Overt Act No. 12: On or about May 18, 2020, defendant HARRIS
22 withdrew \$300,000 from the Deja Wells Fargo Account.

23 Overt Act No. 13: On or about May 19, 2020, defendant HARRIS
24 withdrew \$200,000 from the Deja Wells Fargo Account.

25 Overt Act No. 14: On or about May 20, 2020, defendant HARRIS
26 withdrew \$50,000 from the Deja Wells Fargo Account.

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1 Overt Act No. 15: On or about May 22, 2020, defendant HARRIS
2 withdrew \$8,000 from the Deja Wells Fargo Account.

3 Overt Act No. 16: On or about May 26, 2020, defendant HARRIS
4 withdrew \$9,000 from the Deja Wells Fargo Account.

5 Overt Act No. 17: On or about June 3, 2020, defendant HARRIS
6 withdrew \$5,000 from the Deja Wells Fargo Account.

7 Overt Act No. 18: On or about June 3, 2020, defendant HARRIS
8 signed a check in the amount of \$600,000 payable to Deja and
9 deposited the check, which resulted in the transfer of PPP loan
10 proceeds from the Deja Bank 1 Account to the Deja Wells Fargo
11 Account.

12 Overt Act No. 19: On or about June 11, 2020, defendant HARRIS
13 initiated a wire transfer of \$350,000 of PPP loan proceeds from the
14 Deja Wells Fargo Account to the Capital Stone Wells Fargo Account.

15 Overt Act No. 20: On or about June 12, 2020, defendant HARRIS
16 signed a check in the amount of \$20,000 payable to F.Z., which
17 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
18 Account.

19 Overt Act No. 21: On or about June 18, 2020, defendant HARRIS
20 withdrew \$9,000 from the Deja Wells Fargo Account.

21 Overt Act No. 22: On or about June 19, 2020, defendant HARRIS,
22 sent a wire transfer of \$200,000 of PPP loan proceeds from the Deja
23 Wells Fargo Account to a Citibank account ending in 2201 in the name
24 of Capital Stone.

25 Overt Act No. 23: On or about August 5, 2020, defendant HARRIS
26 initiated a wire transfer of \$40,000 of PPP loan proceeds from the
27 Deja Wells Fargo Account to a Citibank account ending in 2201 in the
28 name of defendant HARRIS.

1 Overt Act No. 24: On or about October 1, 2020, defendant
2 HARRIS signed a check in the amount of \$20,000 payable to X.L., which
3 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
4 Account.

5 Overt Act No. 25: On or about October 6, 2020, defendant
6 HARRIS signed a check in the amount of \$45,955 payable to H.B., which
7 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
8 Account.

9 Overt Act No. 26: On or about October 19, 2020, defendant
10 HARRIS signed a check in the amount of \$15,000 payable to Z.L., which
11 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
12 Account.

13 Overt Act No. 27: On or about October 13, 2021, defendant
14 HARRIS signed a check in the amount of \$45,000 payable to Deja, which
15 resulted in the transfer of PPP loan proceeds from the Deja Bank 1
16 Account.

17 Overt Act No. 28: On or about October 20, 2021, defendant
18 HARRIS withdrew \$40,000 from the Deja Wells Fargo Account.

19 Overt Act No. 29: On or about November 4, 2021, defendant
20 HARRIS withdrew \$5,000 from the Deja Wells Fargo Account.

21 Overt Act No. 30: On January 18, 2022, defendant HARRIS
22 submitted to Bank 1 a fraudulent PPP Loan Forgiveness Application
23 Form (the "Deja Forgiveness Application"), which falsely represented,
24 among other things, that: (1) Deja had 306 employees at the time of
25 the Deja Application; (2) the dollar amount for which forgiveness was
26 requested "was used to pay business costs that are eligible for
27 forgiveness (payroll costs to retain employees; business mortgage
28 interest payments; business rent or lease payments; business utility

1 payments; covered operations expenditures; covered property damage
2 costs; covered supplier costs; or covered worker protection
3 expenditures)[,]" and caused the electronic transfer of money in the
4 custody and control of the SBA to Bank 1 on or about September 15,
5 2022.

6 Emergency Response Nursing, LLC

7 Overt Act No. 31: On or about July 31, 2020, in a WeChat
8 communication, defendant LU sent defendant SPIRO a PDF titled
9 "Citi_Small_Business_Loan_Application_2483_Doc.pdf," which was a PPP
10 Borrower Application Form that was purportedly electronically signed
11 by J.L. on behalf of ERN on or about July 31, 2020, which
12 (i) represented that J.L. was the "Chief Executive Officer" of ERN
13 and owned 100 percent of ERN; and (ii) falsely represented that ERN
14 had 137 employees and an average monthly payroll of \$397,281; and
15 (iii) listed an email address that consisted of J.L.'s last name,
16 J.L.'s first name, and some numbers (the "J.L. Email Address").

17 Overt Act No. 32: On or about September 25, 2020, in a WeChat
18 group chat in which defendants HARRIS, SPIRO, CHEN, and LU were
19 participants, after defendant CHEN sent a message asking, "Yao, which
20 email did you use for er nursing[,]" defendant LU logged into the
21 J.L. Email Address, told the group that the lender needed a "tax
22 return, bank statements, and a voided check[,]" and told the group
23 that he was going to "make" the fake files.

24 Overt Act No. 33: On or about January 16, 2021, defendant
25 CHEN, in a WeChat communication, sent defendant HARRIS a message
26 stating: "Emergency response nursing llc[.] 1055 E. Colorado blvd
27 suite500 pasadena ca 91106[.]"

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1 Overt Act No. 34: On or about January 20, 2021, after
2 defendant SPIRO, in a text message, asked defendant CHEN, "Can you
3 screen shot the 941 & the payroll report for me[,] " defendant CHEN
4 sent an image of a Form 941 for ERN for the second quarter of 2019
5 that falsely represented that: (1) ERN had 145 employees; and (2) ERN
6 paid quarterly "[w]ages, tips, and other compensation" of
7 \$1,205,842.22.

8 Overt Act No. 35: On or about February 2, 2021, on behalf of
9 ERN, defendant CHEN or an unidentified co-conspirator, submitted to
10 Bank 1 a PPP Borrower Application Form (the "ERN Application") that
11 was purportedly electronically signed by "Jin Lie," which:
12 (i) falsely represented that ERN had 268 employees and an average
13 monthly payroll of \$460,329; (ii) included supporting documents,
14 including federal tax forms, that were false and fraudulent;
15 (iii) falsely certified that the applicant would use the loan
16 proceeds only for permissible business purposes; (iv) falsely
17 certified that all information submitted in or with the loan
18 application was true and accurate; and (v) represented that J.L. was
19 a "Managing Member" who owned 88 percent of ERN.

20 Overt Act No. 36: On or about February 2, 2021, after
21 defendant CHEN sent defendant SPIRO a text message stating,
22 "docusigned for" Bank 1, defendant SPIRO replied: "What was the final
23 loan amount?"

24 Overt Act No. 37: On or about February 10, 2021, via text
25 messages, defendant CHEN told defendant SPIRO that they needed to pay
26 "a little" to J.L., the "guy" on "the ERN[.]"

27 Overt Act No. 38: On or about February 24, 2021, in a text
28 message conversation, after defendant CHEN asked defendant SPIRO,

1 "Can i wire to 116 guilden llc company[,] " defendant SPIRO replied,
2 "I don't see why not[.]"

3 Overt Act No. 39: After Bank 1 deposited, on or about
4 February 2, 2021, approximately \$1,150,822 of PPP loan proceeds into
5 a Bank 1 account ending in 8442 in the name of ERN (the "ERN Bank 1
6 Account") for which J.L. was the sole signer, defendant CHEN caused a
7 wire transfer of \$600,300 of PPP loan proceeds from the ERN Bank 1
8 Account to a JPMorgan Chase Bank with routing number 021000021, which
9 is located in Ohio, specifically, to an account ending in 3598 in the
10 name of 116 Guilden LLC (the "116 Guilden Account") on or about
11 February 25, 2021.

12 Overt Act No. 40: On or about February 28, 2021, via text
13 messages, defendant CHEN asked defendant SPIRO if they "can wire the
14 rest" to "Vantage escrow inc[.]"

15 Overt Act No. 41: On or about March 3, 2021, defendant CHEN
16 caused a wire transfer of \$200,315.29 of PPP loan proceeds from the
17 ERN Bank 1 Account to the 116 Guilden Account.

18 Overt Act No. 42: On or about March 10, 2021, after defendant
19 CHEN, in a text message, asked defendant SPIRO, "Can we send the rest
20 to vantage escrow company[,] " defendant SPIRO replied: "I don't see
21 why not, but how will they send it back?"

22 Overt Act No. 43: On or about March 11, 2021, defendant CHEN
23 caused a wire transfer of \$300,356.20 of PPP loan proceeds from the
24 ERN Bank 1 Account to an East West Bank account ending in 0055 in the
25 name of Vantage Escrow Inc.

FORFEITURE ALLEGATION

[18 U.S.C. § 982]

1. Pursuant to Rule 32.2(a) of the Federal Rules of Criminal Procedure, notice is hereby given that the United States of America will seek forfeiture as part of any sentence, pursuant to Title 18, United States Code, Section 982(a)(2), in the event of the conviction of defendants COLE MATTHEW HARRIS, ROBERT DOUGLAS SPIRO, JR., CINDY CHEN, or YAO LU of the offense set forth in the sole count of this Indictment.

2. Any defendant so convicted shall forfeit to the United States of America the following:

(a) All right, title and interest in any and all property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense; and

(b) To the extent such property is not available for forfeiture, a sum of money equal to the total value of the property described in subparagraph (a).

3. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), any defendant so convicted shall forfeit substitute property, up to the total value of the property described in the preceding paragraph if, as the result of any act or omission of said defendant, the property described in the preceding paragraph, or any portion thereof:

(a) cannot be located upon the exercise of due diligence; (b) has been transferred, sold to or deposited with a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been

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substantially diminished in value; or (e) has been commingled with other property that cannot be divided without difficulty.

A TRUE BILL

/s/
Foreperson

E. MARTIN ESTRADA
United States Attorney


Scott M. Garringer
Deputy Chief, Criminal Division For:

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Assistant United States Attorney
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